

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

SEAN PRESSLEY, :
Plaintiff, : CIVIL NO. 3:08-0449
v. : (MANNION, D.J.)
(MEHALCHICK, M.J.)
ADAM HUBER, et al., :
Defendants :
:

ORDER

In accordance with the accompanying Memorandum, **IT IS HEREBY ORDERED:**

1. Plaintiff's motion for relief from the March 21, 2017 Order pursuant to [Fed.R.Civ.P. 60\(b\)](#), (Doc. [126](#)), is **DENIED AS PREMATURE**.
2. Insofar as plaintiff's Doc. [126](#) motion is construed as a motion for reconsideration with respect to the March 21, 2017 Order, it is **GRANTED**.
3. The March 21, 2017 Order, (Doc. [123](#)), is **VACATED** to the extent that it granted defendants' (Doc. [99](#)) summary judgment motion with respect to plaintiff's failure to protect claim.
4. The March 21, 2017 Memorandum, (Doc. [122](#)), and Order, (Doc. [123](#)), are also **VACATED** with respect to the finding that plaintiff failed to exhaust his administrative remedies under DC-ADM-804 of the DOC's grievance policy regarding his failure to protect and excessive force claims.
5. The March 21, 2017 Order, (Doc. [123](#)), **SHALL REMAIN IN EFFECT** to the extent that it granted defendants' (Doc. [99](#)) summary judgment motion on the merits with respect to plaintiff's due process cost assessment claim.
6. The court **RECOMMITS** this case to Judge Mehalchick and suggests that she issue an Order permitting the parties time to file summary judgment motions regarding the exhaustion issue under DC-ADM-804 with respect to plaintiff's failure to protect and excessive force claims.

s/ Malachy E. Mannion
~~MALACHY E. MANNION~~
United States District Judge

Dated: August 1, 2017